

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

SHANNON MILBURN,**Plaintiff,****v.****BRAUM'S, INC.,****Defendant.**

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§

CIV. ACTION NO. _____

INDEX OF MATTERS BEING FILED

ITEM	EXHIBIT NUMBER	BATES NUMBER
List of all parties in the case, their party type, and current status of the removed case	Exhibit 1	000001-000002
Civil Cover Sheet and Attachment	Exhibit 2	000003-000007
Copy of 141 st District Court of Collin County, Texas Docket Sheet for the Action	Exhibit 3	000008-000009
Copy of Plaintiff's Original Petition	Exhibit 4	000010-000016
Copy of Civil Citation Issued to Braum's, Inc.	Exhibit 5	000017-000019
Copy of Service Return re: Braum's, Inc.	Exhibit 6	000020-000023
Copy of Braum's, Inc. Original Answer	Exhibit 7	000024-000027
List of All Counsel of Record	Exhibit 8	000028-000030
Record of which parties have requested a jury trial	Exhibit 9	000031-000032

Name and address of court from which the Action is removed	Exhibit 10	000033-000034
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Respectfully submitted,



SCOTT A. SHANES

State Bar No. 00784953

sshanes@clarkhill.com

DANIEL P. TROIANO

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dtroiano@clarkhill.com

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2600 Dallas Parkway, Suite 600

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**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**

EXHIBIT 1

LIST OF ALL PARTIES IN THE ACTION AND STATUS OF REMOVED CASE

The following is a complete list of all parties in the civil action titled *Shannon Milburn v. Braum's, Inc.*, Cause No. 141-325957-21, which was commenced in the 141st District Court of Tarrant County, Texas (the "Action") and is being removed to the United States District Court for the Northern District of Texas, Fort Worth Division:

Name of Party	Party Type
Shannon Milburn	Plaintiff
Braum's, Inc.	Defendant

The removed Action is currently pending.

This 22nd day of July, 2021.

Respectfully submitted,



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**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**

EXHIBIT 2

CIVIL COVER SHEET

Case 3:21-cv-01701-B Document 1-3 Filed 07/22/21 Page 6 of 36 PageID 17

The JS 44 civil cover sheet and the information contained hereon shall be used for the filing and service of pleadings and other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shannon Milburn

(b) County of Residence of First Listed Plaintiff Tarrant County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Braum's, Inc.

County of Residence of First Listed Defendant Oklahoma City, Oklahoma
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332, 28 U.S.C. Sections 1441(a)-(b), and 28 U.S.C. Section 1446

Brief description of cause:

Removal, based on 28 U.S.C. Section 1332, of a civil action brought in State court for personal injury

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE see attachment-Judge John P. Chupp DOCKET NUMBER 141-325957-21

DATE

July 22, 2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ Scott A. Shanes

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

000004

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET**Section I(c). Attorneys**

Name of Party	Party Type	Attorney
Shannon Milburn	Plaintiff	Timothy R. Reilley State Bar No. 00797297 Max M. Murphy State Bar No. 24098159 8222 Douglas Ave, Suite 400 Dallas, TX 75225 214-526-7900 214-526-7910 (fax) Email: tim@reyeslaw.com Email: max@reyeslaw.com
Braum's, Inc.	Defendant	SCOTT A. SHANES State Bar No. 00784953 sshanes@clarkhill.com DANIEL P. TROIANO State Bar No. 24106520 dtroiano@clarkhill.com CLARK HILL PLC 2600 Dallas Parkway Suite 600 Frisco, TX 75034 (469) 287-3900 (469) 287-3999 Fax

Section II. Citizenship of Principal Parties

Party Name	Party Type	Citizen of This State	Citizen of Another State	Incorporated and Principal Place of Business In Another State
Shannon Milburn	Plaintiff	Yes		

Braum's, Inc.	Defendant	No	Yes	Yes
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Section III. Related Case(s) If Any

Judge	Docket Number	Court	Plaintiff	Defendant
Hon. John P. Chupp	141-325957-21	141 st District Court of Tarrant County, Texas	Shannon Milburn	Braum's, Inc.

Respectfully submitted,



SCOTT A. SHANES

State Bar No. 00784953

sshanes@clarkhill.com

DANIEL P. TROIANO

State Bar No. 24106520

dtroiano@clarkhill.com

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2600 Dallas Parkway, Suite 600

Frisco, TX 75034

(469) 287-3900

(469) 287-3999 Fax

**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**

Dated: July 22, 2021.

EXHIBIT 3



Tarrant County District Clerk Online

Thomas A. Wilder, District Clerk

Civil Case and Transaction Information

07/22/2021 11:00 AM

Court : 141 Case : 325957 Search New Search ☐ Show Service Documents ONLY

Cause Number : 141-325957-21

Date Filed : 06-18-2021

SHANNON MILBURN | VS | BRAUM'S, INC.

Cause of Action : INJURY OR DAMAGE, PREMISES

Case Status : PENDING

File Mark Description

Assessed Fee Credit/Paid Fee

06-18-2021	<u>PLTF'S ORIG PET</u>	N	<u>\$289.00</u>	
06-18-2021	<u>PAYMENT RECEIVED trans #1</u>	Y		<u>\$289.00</u>
06-18-2021	<u>LTR REQ CIT (EMAIL) (SENT TO DOC PROD EM)</u>			<u>\$0.00</u>
06-18-2021	<u>CIT-ISSUED ON BRAUM'S INC-On 06/21/2021</u>	N Svc	<u>\$8.00</u>	
06-18-2021	<u>PAYMENT RECEIVED trans #4</u>	Y		<u>\$8.00</u>
06-18-2021	<u>JURY FEE</u>	N	<u>\$40.00</u>	
06-18-2021	<u>PAYMENT RECEIVED trans #6</u>	Y		<u>\$40.00</u>
07-13-2021	<u>AFFDT OF SVC - BRAUMS INC</u>			<u>\$0.00</u>
07-13-2021	<u>CIT Tr# 4 RET EXEC(BRAUM'S INC) On 06/23/2021</u>			<u>\$0.00</u>
07-16-2021	<u>DEFNS ORIG ANS</u>			<u>\$0.00</u>

000009

EXHIBIT 4

CAUSE NO. 141-325957-21

SHANNON MILBURN	§	IN THE DISTRICT COURT
	§	
	§	
v.	§	_____ JUDICIAL DISTRICT
	§	
	§	
BRAUM'S, INC.	§	TARRANT COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

Plaintiff Shannon Milburn ("Plaintiff") files this Original Petition complaining of Defendant Braum's, Inc. ("Defendant") and for cause of action states the following:

DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure, Plaintiff states that discovery in this cause is intended to be conducted under Level 3.

JURY DEMAND

2. Pursuant to Rules 216 and 217 of the Texas Rules of Civil Procedure, Plaintiff requests a jury trial of this matter. Accordingly, Plaintiff tenders the proper jury fee with the filing of Plaintiff's Original Petition.

PARTIES

3. Plaintiff Shannon Milburn is an individual residing in Tarrant County, Texas.
4. Defendant Braum's, Inc. is an incorporated entity and may be served through its registered agent CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

ASSUMED NAMES

5. Pursuant to TEX. R. CIV. P. 28, Plaintiff hereby gives Defendant Braum's, Inc. notice that it is being sued in all of its business, common, trade, or assumed names regardless of

whether such businesses are partnerships, unincorporated associations, individuals, entities, and/or private corporations. Plaintiff hereby demands that upon answering this suit, Defendant Braum's, Inc. answer in its correct legal name(s) and assumed name(s).

VENUE AND JURISDICTION

6. Venue is proper in this Court by virtue of Tex. Civ. Prac. & Rem. Code §15.002(a). Furthermore, this Court has jurisdiction in that the damages being sought are within the jurisdictional limits of this Court.

FACTS

7. This lawsuit is based on an incident occurring on or about January 16, 2020 inside Braum's Store #200 located at 309 N. Main Street, Euless, Texas 76039 (hereinafter referred to as "The Premises").
8. At the time of the incident, Defendant Braum's, Inc. was the owner and/or possessor of The Premises.
9. At the time of the incident, Plaintiff was lawfully on The Premises as an invitee. Defendant Braum's, Inc. owed a duty to protect Plaintiff from the condition made the basis of this lawsuit (herein referred to as "The Incident").
10. At the time of The Incident, Plaintiff was inside of The Premises and slipped on spilled liquid on the floor. Plaintiff suffered serious injuries to her left knee and right elbow.
11. The Incident was proximately caused by the existence of a condition on The Premises that was unreasonably dangerous and constituted an unreasonable risk of harm.
12. Defendant knew or should have known of the danger such condition posed.
13. The Incident was proximately caused by the negligence of Defendant.

CAUSES OF ACTION

Negligence and Premises Liability

14. At the time of the Incident, Defendant was the owner and/or possessor of The Premises.
15. Plaintiff was an invitee of Defendant. Defendant owed Plaintiff a duty to protect her from the condition made the basis of this suit.
16. At the time of The Incident, Plaintiff was on The Premises of Defendant when she slipped and fell due to spilled liquid on the floor. This condition posed an unreasonable risk of harm. Defendant knew or should have known about this unreasonable risk of harm. Defendant created and/or failed to timely and appropriately remedy the hazard which caused Plaintiff's fall and injuries.
17. On the occasion in question, Defendant acting through its agents, servants, and/or employees who were at all times acting within the course and scope of their employment committed acts and/or omissions that constituted negligence which proximately caused the incident in question; to wit:
 - a. In failing to maintain the premises in question in a reasonably safe condition and free of hazards to Plaintiff and other invitees entering the premises;
 - b. In failing to correct the unreasonably dangerous condition which was created by the condition of the premises in question;
 - c. In failing to warn invitees, including the Plaintiff of the dangerous condition of the premises in question;
 - d. In failing to properly inspect the premises in question to discover the unreasonably dangerous condition created by the condition in question;
 - e. In failing to properly train its agents, servants, and/or employees regarding the proper manner in which to make the premises reasonably safe;
 - f. In failing to implement proper policies, rules, and/or procedures to make its premises reasonably safe; and
 - g. In failing to enforce proper policies, rules, and/or procedures to make its premises reasonably safe.

18. Each of the foregoing acts or omissions, singularly or in combination with others, constituted negligence, which proximately caused The Incident and Plaintiff's injuries and damages.

PERSONAL INJURIES AND DAMAGES

19. As a result of Defendant's negligent actions, Shannon Milburn suffered personal injuries.

Consequently, Shannon Milburn seeks recovery of the following damages:

- a. Medical Expenses: Shannon Milburn incurred bodily injuries which were caused by The Incident and Shannon Milburn incurred medical expenses for treatment of such injuries. Shannon Milburn believes that, in reasonable medical probability such injuries will require the need for future medical care.
- b. Physical Pain: Shannon Milburn endured physical pain as a result of the personal injuries sustained in The Incident and reasonably anticipates such pain will continue in the future.
- c. Mental Anguish: Shannon Milburn endured mental anguish as a result of the personal injuries sustained in The Incident and reasonably anticipates such mental anguish will continue in the future.
- d. Disfigurement: Shannon Milburn endured disfigurement as a result of the personal injuries sustained in The Incident and reasonably anticipates such will continue in the future.
- e. Impairment: Shannon Milburn endured physical impairment as a result of the personal injuries sustained in The Incident and reasonably anticipates such in the future.
- f. Loss of Earning Capacity: Shannon Milburn lost wages as a result of the personal injuries sustained in The Incident. Shannon Milburn reasonably believes that such injuries will diminish Plaintiff's earning capacity in the future.

AGGRAVATION

20. In the alternative, if it be shown that the Plaintiff suffered from any pre-existing injury, disease and/or condition at the time of the incident made the basis of the lawsuit, then such

injury, disease and/or condition was aggravated and/or exacerbated by the negligence of the Defendant.

U.S. LIFE TABLES

21. Notice is hereby given to the Defendant that Plaintiff intends to use the U. S. Life Tables as published by the Department of Health and Human Services - National Vital Statistics Report in the trial of this matter. Plaintiff requests that this Honorable Court take judicial notice of those rules, regulations, and statutes of the United States and the State of Texas, pursuant to Texas Rule of Evidence 201 and 1005.

RELIEF SOUGHT

22. Pursuant to Texas Rules of Civil Procedure 193.7, notice is hereby given of the intention to use any of the documents exchanged and/or produced between any party during the trial of this case. All conditions precedent to Plaintiff's right to recover the relief sought herein have occurred or have been performed.
23. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff states that Plaintiff seeks monetary relief in excess of \$250,000, but less than \$1,000,000. As discovery takes place and testimony is given, Plaintiff will be in a better position to give the maximum amount of damages sought.
24. Plaintiff requests that Defendant be cited to appear and answer, and that this case be tried after which Plaintiff recover:
- a. Judgment against Defendant for a sum within the jurisdictional limits of this Court for the damages set forth herein;
 - b. Pre-judgment interest at the maximum amount allowed by law;

- c. Post-judgment interest at the maximum rate allowed by law;
- d. Costs of suit; and
- e. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

REYES | BROWNE | REILLEY

/s/ Timothy R. Reilley

Timothy R. Reilley

State Bar No. 00797297

Max M. Murphy

State Bar No. 24098159

8222 Douglas Ave, Suite 400

Dallas, TX 75225

(214) 526-7900

(214) 526-7910 (Fax)

tim@reyeslaw.com

max@reyeslaw.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT 5

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No. 141-325957-21

SHANNON MILBURN
VS.
BRAUM'S, INC.

TO: BRAUM'S INC

B/S REG AGT-CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS, TX 75201-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 141st District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

SHANNON MILBURN

Filed in said Court on June 18th, 2021 Against
BRAUM'S INC

For suit, said suit being numbered 141-325957-21 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

TIMOTHY R REILLEY

Attorney for SHANNON MILBURN Phone No. (214)526-7900

Address 8222 DOUGLAS AVE STE 400 DALLAS, TX 75225

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 21st day of June, 2021.

By Natalie Thigpen Deputy
NATALIE THIGPEN

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM, on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

OFFICER'S RETURN *14132595721000004*

Received this Citation on the _____ day of _____, _____ at _____ o'clock _____ M; and executed at _____ within the county of _____, State of _____ at _____ o'clock _____ M on the _____ day of _____, _____ by delivering to the within named (Def.): _____ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: _____

County of _____ State of _____ By _____ Deputy

Fees \$ _____

State of _____ County of _____ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said _____ before me this _____ day of _____,

to certify which witness my hand and seal of office

(Seal)

County of _____, State of _____

CITATION

Cause No. 141-325957-21

SHANNON MILBURN

VS.

BRAUM'S, INC.

ISSUED

This 21st day of June, 2021

Thomas A. Wilder
Tarrant County District Clerk
100 N CALHOUN
FORT WORTH TX 76196-0402

By NATALIE THIGPEN Deputy

TIMOTHY R REILLEY
Attorney for: SHANNON MILBURN
Phone No. (214)526-7900
ADDRESS: 8222 DOUGLAS AVE STE 400

DALLAS, TX 75225

CIVIL LAW



14132595721000004

SERVICE FEES NOT COLLECTED
BY TARRANT COUNTY DISTRICT CLERK
ORIGINAL

EXHIBIT 6

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No. 141-325957-21

SHANNON MILBURN
VS.
BRAUM'S, INC.

TO: BRAUM'S INC

B/S REG AGT-CT CORPORATION SYSTEM 1999 BRYAN ST STE 900 DALLAS, TX 75201-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 141st District Court, 100 N CALHOUN, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

SHANNON MILBURN

Filed in said Court on June 18th, 2021 Against
BRAUM'S INC

For suit, said suit being numbered 141-325957-21 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

TIMOTHY R REILLEY

Attorney for SHANNON MILBURN Phone No. (214)526-7900

Address 8222 DOUGLAS AVE STE 400 DALLAS, TX 75225

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 21st day of June, 2021.

By

Natalie Thigpen

NATALIE THIGPEN



A CERTIFIED COPY
ATTEST: 06/21/2021
THOMAS A. WILDER
DISTRICT CLERK
TARRANT COUNTY, TEXAS
BY: /s/ Natalie Thigpen

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM, on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Thomas A. Wilder, Tarrant County District Clerk, 100 N CALHOUN, FORT WORTH TX 76196-0402

OFFICER'S RETURN *14132595721000004*

Received this Citation on the _____ day of _____, _____ at _____ o'clock _____ M; and executed at _____ within the county of _____, State of _____ at _____ o'clock _____ M on the _____ day of _____, _____ by delivering to the within named (Def.): _____ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: _____

County of _____ State of _____ By _____ Deputy

Fees \$ _____

State of _____ County of _____ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said _____ before me this _____ day of _____, _____

to certify which witness my hand and seal of office

(Seal)

County of _____, State of _____

CITATION

Cause No. 141-325957-21

SHANNON MILBURN

VS.

BRAUM'S, INC.

ISSUED

This 21st day of June, 2021

Thomas A. Wilder
Tarrant County District Clerk
100 N CALHOUN
FORT WORTH TX 76196-0402

By NATALIE THIGPEN Deputy

TIMOTHY R REILLEY
Attorney for: SHANNON MILBURN
Phone No. (214)526-7900
ADDRESS: 8222 DOUGLAS AVE STE 400

DALLAS, TX 75225

CIVIL LAW



14132595721000004

SERVICE FEES NOT COLLECTED
BY TARRANT COUNTY DISTRICT CLERK
ORIGINAL

AFFIDAVIT OF SERVICE

State of Texas

County of TARRANT

141st District Court

Case Number: 14132585721

Plaintiff:
SHANNON MILBURN

vs.

Defendant:
BRAUM'S, INC.

For:
Timothy R. Reilly
REYES BROWNE
8222 Douglas Avenue
Suite 400
Dallas, TX 75225



FWT2021001555

Received by Alliance Civil Process, Inc. on the 21st day of June, 2021 at 1:17 pm to be served on BRAUM'S, INC. BY DELIVERING TO REGISTERED AGENT CT CORPORATION SYSTEM, 1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201.

I, Donna Jo King, being duly sworn, depose and say that on the 23rd day of June, 2021 at 10:15 am, I:

delivered a true copy of the CITATION AND PLAINTIFF'S ORIGINAL PETITION with the date of service endorsed thereon by me, to:

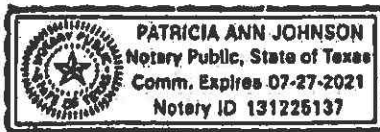
BRAUM'S, INC. BY DELIVERING TO REGISTERED AGENT CT CORPORATION SYSTEM

by delivering to TERRI THONGSAVAT in person as AUTHORIZED AGENT at the address of: 1999 BRYAN STREET, SUITE 900, DALLAS, TX 75201 who stated they are authorized to accept service.

I certify that I am over the age of 18, have no interest in the above action, and am authorized by written order of the court to serve citation and other notices. I have personal knowledge of the facts stated above and declare under penalty of perjury that each is true and correct.

Subscribed and Sworn to before me on the 23 day of June 2021 by the affiant who is personally known to me.

Patricia Ann Johnson
NOTARY PUBLIC



Donna Jo King
Donna Jo King
PSC-11391; Exp 3/31/2022
Alliance Civil Process, Inc.
136 W. McLeroy Blvd., Ste. A
Saginaw, TX 76179
(817) 308-4150

Our Job Serial Number: FWT-2021001555
Ref: 20051984562
Service Fee: 70



EXHIBIT 7

CAUSE NO. 141-325957-21**SHANNON MILBURN****Plaintiffs,****v.****BRAUM'S, INC.,****Defendant.**§
§
§
§
§
§
§
§
§**IN THE DISTRICT COURT OF****TARRANT COUNTY, TEXAS****141ST JUDICIAL DISTRICT****DEFENDANT'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Braum's, Inc., Defendant in the above-styled and numbered cause, and files this its Original Answer, and would respectfully show the following:

I.
GENERAL DENIAL

1. Pursuant to Tex. R. Civ. P. 92, Defendant Braum's, Inc. ("Defendant") denies generally and materially all allegations contained in Plaintiff Shannon Milburn's ("Plaintiff") Original Petition, and demands strict proof thereof.

II.
AFFIRMATIVE DEFENSES

2. To the extent applicable, Defendant affirmatively states that Plaintiff has failed to mitigate her alleged damages.

3. Defendant affirmatively states that to the extent applicable, Plaintiff's damages, if any, were proximately caused by her sole negligence.

4. Plaintiff's damages, if any, are limited by the exemplary damages cap found in Chapter 41 of the Texas Civil Practice & Remedies Code and the excessive fines clause of the

Eighth Amendment, Fourteenth Amendment, the Due Process Clause of the United States Constitution, and the laws of the State of Texas.

5. To the extent applicable and without admitting that Plaintiff suffered any damages, none of Defendant's alleged actions were done knowingly, intentionally, with malice, with specific intent to cause injury, and/or with reckless indifference to Plaintiff's rights.

6. Defendant reserves the right to assert additional affirmative defenses.

III.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Braum's, Inc. respectfully prays that upon final hearing hereof, the Court render judgment that Plaintiff Shannon Milburn take nothing from Defendant as a result of this lawsuit and that Defendant be awarded all other relief to which it may be justly entitled.

Respectfully submitted,

/s/ Daniel P. Troiano

SCOTT A. SHANES

State Bar No. 00784953

sshanes@clarkhill.com

DANIEL P. TROIANO

State Bar No. 24106520

dtroiano@clarkhill.com

CLARK HILL PLC

2600 Dallas Parkway, Suite 600

Frisco, TX 75034

(469) 287-3900

(469) 287-3999 Fax

**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**

CERTIFICATE OF SERVICE

The undersigned counsel certifies that on July 16, 2021, a true and correct copy of the foregoing was forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure.

TIMOTHY R. REILLY

State Bar No. 00797297

tim@reyeslaw.com

MAX M. MURPHY

State Bar No. 24098159

max@reyeslaw.com

REYES | BROWN | REILLEY

8222 Douglas Avenue, Suite 400

Dallas, Texas 75225

(214) 526-7900

(214) 526-7910 (Fax)

/s/ Daniel P. Troiano

DANIEL P. TROIANO

EXHIBIT 8

List of All Counsel of Record for the Parties in the Action

The following is a complete list of all counsel of record for the parties in the civil action titled *Shannon Milburn v. Braum's, Inc.*, Cause No. 141-325957-21, which was commenced in the 141st District Court of Tarrant County, Texas (the "Action") and is being removed to the United States District Court for the Northern District of Texas, Fort Worth Division:

Name of Party	Party Type	Attorney
Shannon Milburn	Plaintiff	Timothy R. Reilley State Bar No. 00797297 Max M. Murphy State Bar No. 24098159 8222 Douglas Ave, Suite 400 Dallas, TX 75225 214-526-7900 214-526-7910 (fax) Email: tim@reyeslaw.com Email: max@reyeslaw.com
Braum's, Inc.	Defendant	SCOTT A. SHANES State Bar No. 00784953 sshanes@clarkhill.com DANIEL P. TROIANO State Bar No. 24106520 dtroiano@clarkhill.com CLARK HILL PLC 2600 Dallas Parkway Suite 600 Frisco, TX 75034 (469) 287-3900 (469) 287-3999 Fax

Respectfully submitted,



SCOTT A. SHANES
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Frisco, TX 75034

(469) 287-3900

(469) 287-3999 Fax

ATTORNEYS FOR DEFENDANT

BRAUM'S, INC.

EXHIBIT 9

Record of Which Parties Have Requested a Jury Trial in the Action

Plaintiff has demanded a jury trial.

Respectfully submitted,



SCOTT A. SHANES

State Bar No. 00784953

sshanes@clarkhill.com

DANIEL P. TROIANO

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Frisco, TX 75034

(469) 287-3900

(469) 287-3999 Fax

**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**

EXHIBIT 10

Name and Address of Court from which the Action is Removed

The following is the name and address of the State court from which the civil action titled *Shannon Milburn v. Braum's, Inc.*, Cause No. 141-325957-21, and commenced in the 141st District Court of Tarrant County, Texas (the "Action"), is being removed to the United States District Court for the Northern District of Texas, Fort Worth Division:

141st District Court of Tarrant County, Texas
Tom Vandergriff Civil Courts Building
3rd Floor
100 North Calhoun Street
Fort Worth, TX 76196

Respectfully submitted,



SCOTT A. SHANES

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DANIEL P. TROIANO

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**ATTORNEYS FOR DEFENDANT
BRAUM'S, INC.**